

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

RENN HUDSON,

Plaintiff,

v.

**SHELBY KENNEDY and
GULLY TRANSPORTATION, INC.,**

Defendants.

Case No.

JURY TRIAL DEMANDED

NOTICE OF REMOVAL

COMES NOW Defendant Shelby Kennedy, with the consent of Defendant Gully Transportation, Inc. and respectfully states:

1. Plaintiff Renn Hudson is a resident of the State of Missouri. *See paragraph 1 of Plaintiff's Petition in Cause No. 1922-CC11533 filed in the Circuit Court of the City of St. Louis ("Exhibit A").*

2. Defendant Shelby Kennedy is a resident of the State of Illinois. *See paragraph 2 of Plaintiff's Petition (Exhibit A).*

3. Defendant Gully Transportation, Inc. is a resident of the State of Illinois. *See paragraph 3 of Plaintiff's Petition (Exhibit A) along with a copy of the 2009 Annual Registration Report which Gully Transportation, Inc. filed with the Missouri Secretary of State, identifying its principal place of business or corporate headquarters at 3820 Wismann Lane, Quincy, Illinois 62301 ("Exhibit B").*

4. Plaintiff Renn Hudson has filed a Petition in the Circuit Court of the City of St. Louis, Cause No. 1922-CC11533, alleging that on or about July 7, 2018, he was a passenger in a motor vehicle which came to a sudden stop as a result of the alleged negligence of Defendant

Shelby Kennedy, resulting in the vehicle in which Plaintiff was riding to be rear-ended by a vehicle being driven by an employee of Defendant Gully Transportation, Inc. *See paragraph 6 of Plaintiff's Petition (Exhibit A).*

5. Defendant Shelby Kennedy was served with suit papers in Cause No. 1922-CC11533 on or about October 18, 2019 and filed an Answer on November 12, 2019. *See Return of Service and Answer from Cause No. 1922-CC11533. (Group Exhibit C.)*

6. Defendant Gully Transportation, Inc. has not yet been served or filed responsive pleadings in Cause No. 1922-CC11533. *Group Exhibit C.*

7. Defendant Gully Transportation, Inc. has consented to the removal of this case to the United States District Court. *See Consent to Removal. ("Exhibit D").*

8. Defendant Shelby Kennedy states that in the Petition Plaintiff filed in state court on September 18, 2019, Plaintiff sought a judgment against Defendants in "a just and reasonable amount in excess of twenty-five thousand dollars (\$25,000.00) but less than seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs expended herein and for such further relief as this Court deems just and proper." *Exhibit A.*

9. At the time that the Petition was filed in Cause No. 1922-CC11533, Defendant Shelby Kennedy did not have a good faith reason to believe that this cause of action was worth more than \$75,000.00, based upon the prayer contained in Plaintiff's Petition.

10. On November 12, 2019, Defendant Shelby Kennedy sent a Request for Admissions to Plaintiff, asking Plaintiff to admit that the value of his case does not exceed \$75,000.00.

11. On December 13, 2019, Plaintiff served via email upon Defendant Kennedy Plaintiff's Responses to Defendant Kennedy's Request for Admissions in which Plaintiff denied that the value of his case does not exceed \$75,000.00. It should be noted that the Certificate of

Service on Plaintiff's Responses to Defendant Kennedy's Request for Admissions indicates that Plaintiff's Responses were forwarded to counsel for Defendant Kennedy on November 13, 2019 but this obviously was a typographical error and should have shown December 13, 2019, as referenced in the attached email of service from counsel for Plaintiff to counsel for Defendant Kennedy. *Group Exhibit E.*

12. In the Request for Admissions which Defendant Shelby Kennedy sent to Plaintiff in Cause No. 1922-CC11533, Plaintiff was also asked to admit the total amount of damages in which Plaintiff was seeking in this case does not exceed \$75,000.00. Plaintiff responded by the following "Admit at this time as to this Defendant." *Group Exhibit E.*

13. In Paragraph 3 of the Request for Admissions which Defendant Shelby Kennedy sent to Plaintiff, Plaintiff was asked to admit that Plaintiff will not ask the court or a jury to award him more than \$75,000.00 in damages as a result of the accident mentioned in your Petition which occurred on July 7, 2018. Plaintiff denied this Request. *Group Exhibit E.*

14. Paragraph 4 of the Request for Admissions which Defendant Shelby Kennedy sent to Plaintiff, Plaintiff was asked to admit that if a jury awards him more than \$75,000.00, he will agree to remittitur to the amount of \$75,000.00. Plaintiff denied this request. *Group Exhibit E.*

15. Defendant Shelby Kennedy states that although the prayer contained in Plaintiff's Petition sought damages in an amount in excess of \$25,000.00 but not more than \$75,000.00, this prayer can be freely amended by Plaintiff. Defendant Kennedy further states that Plaintiff's Responses to Defendant Kennedy's Request for Admissions were prepared at a date later than the preparation of Plaintiff's Petition, representing the most recent affirmation of Plaintiff of the amount in controversy.

16. Defendant Shelby Kennedy has a good faith reason to believe that the amount in controversy exceeds \$75,000.00 as of December 13, 2019, the date Plaintiff served her responses to this Defendant's Request for Admissions, which is not more than thirty (30) days prior to the filing of this Notice of Removal pursuant to 28 U.S.C. § 1446(b). *See Group Exhibit E.*

17. Counsel for Defendant Shelby Kennedy is licensed to practice law in the State of Missouri and in the United States District Court for the Eastern District of Missouri.

18. Defendant Shelby Kennedy hereby requests a jury trial on all claims.

19. Counsel for Defendant Shelby Kennedy herewith attaches all of the pleadings filed in Case No. 1922-CC11533 filed in the Circuit Court of the City of St. Louis, State of Missouri, pursuant to 28 U.S.C. § 1446(a). *Group Exhibit C.*

20. Defendant Shelby Kennedy states that this Court has jurisdiction of this matter pursuant to diversity of citizenship under 42 U.S.C. § 1441(b).

WHEREFORE, Defendant Shelby Kennedy, with the consent of Defendant Gully Transportation, Inc., prays for an order to be entered herein, causing Case No. 1922-CC11533 in the Circuit Court of the City of St. Louis, State of Missouri, wherein Renn Hudson is the Plaintiff and Shelby Kennedy and Gully Transportation, Inc. are Defendants, to be removed to this Court for further proceedings and that this Court take jurisdiction herein and make such other orders as may be proper under the circumstances.

**RYNEARSON, SUESS, SCHNURBUSCH
& CHAMPION, LLC**

By: /s/ J. Michael Waller
Jeffrey K. Suess #MO35336
J. Michael Waller #MO33658
500 N. Broadway, Suite 1550
Saint Louis, Missouri 63102
Phone: (314) 421-4430
Facsimile: (314) 421-4431
jsuess@rssclaw.com
mwallier@rssclaw.com
Attorneys for Defendant Shelby Kennedy

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was filed and served via the Court's ECF system on this 6th day of January, 2020 to:

James D. O'Leary, Jr., Esq.
O'Leary, Shelton, Corrigan, Peterson,
Dalton, Quillin, LLC
1034 S. Brentwood Boulevard
Penthouse 1-A, 23rd Floor
St. Louis, Missouri 63117
oleary@osclaw.com
Attorney for Plaintiff

Gully Transportation, Inc.
c/o Attorney Ted L. Perryman, Esq.
Roberts Perryman
1034 S. Brentwood, Suite 2100
St. Louis, Missouri 63117
tperryman@robertsperryman.com

/s/ J. Michael Waller